

**UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER**

_____	)	
UNITED STATES OF AMERICA,	)	
Complainant,	)	8 U.S.C. § 1324c Proceeding
	)	
v.	)	
	)	OCAHO Case No. 96C00027
PEDRO DOMINGUEZ,	)	
Respondent.	)	Judge Robert L. Barton, Jr.
_____	)	

**FINAL PREHEARING ORDER**  
*(January 13, 1998)*

The parties have submitted a signed Agreed Prehearing Order (APO). I note that the parties have agreed that there will not be a bifurcated hearing, and they estimate the hearing, including the presentation of both parties' cases in chief and any rebuttal, can be accomplished in three days. The hearing will commence at 9 a.m. on January 20, 1998, at the John H. Wood, Jr., Courthouse, 655 East Durango Boulevard, San Antonio, Texas, in Courtroom No. 5 and continue through January 23, 1998, if necessary. If the parties' estimate of three days proves inaccurate, and the case is not concluded during the week of January 23, the hearing will be adjourned and commenced at a later date.

I have reviewed the APO and, in general, the format and content are being incorporated and adopted as part of this Final Prehearing Order (FPO). Substantive additions to the APO are highlighted in bold print, and any substantive deletions are shown by a line through the text.<sup>1</sup>

Although the issues stated in the APO are somewhat different from those in the Complainant's Statement of Disputed Issues, since the parties have agreed to those formulated in the APO, those issues are adopted and incorporated in the FPO.

Consistent with Federal Rule of Civil Procedure 16, the following is the Final Prehearing Order and shall constitute a complete summary of substantive and procedural matters, and shall

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<sup>1</sup> For consistency certain non-substantive changes have been made in both the headings and text throughout the FPO which are not reflected in bold or by cross out. For example, some headings in the APO were capitalized and others were not. Also the format of the estimate of time in the Complainant's witness list and Respondent's witness list were not consistent.

control the subsequent course of this action. The FPO shall be modified only to prevent manifest injustice.

1. JURISDICTIONAL ISSUES

None.

2. PENDING MOTIONS

~~Complainant will reurge motions previously denied as untimely.~~ **Although Complainant has indicated in the APO that it will reurge motions previously denied as untimely, it does not specify which motions it intends to reargue. If the motions were denied as premature, a party may readdress the motion at an appropriate time. Otherwise, the Court does not favor rehearing motions that have been previously adjudicated, unless there is new evidence which makes reconsideration appropriate.**

3. FACTUAL AND LEGAL ISSUES

This section of the pretrial order covers the disputed legal and factual issues remaining for adjudication by the Honorable Robert L. Barton, Jr., Administrative Law Judge (ALJ). This section does not cover the legal or factual issues which may still be disputed but which have previously been ruled upon by the ALJ or the Honorable Jack E. Perkins, Chief Administrative Hearing Officer (CAHO).

A. Disputed Factual Issues

1. The capacity of the Respondent to pay the fine.
2. The breadth of Respondent's illegal activities or conduct regarding the manufacture and transfer of forged, counterfeited or falsely made immigration documents.
3. The motivations of Respondent to engage in the illegal activities made the basis of this action.
4. The amount of compensation received by Respondent in connection with the forgery, counterfeiting, false making and transfer of immigration documents.
5. The cooperation of the Respondent with the investigation.
6. The factual support for the fine amount established by the INS.

B. Disputed legal issues

1. That the facts justify the imposition of the penalties against Respondent for possession of forged, counterfeited or falsely made documents in addition to imposition of penalties for the forgery, counterfeiting or false making thereof.
2. That the INS fine against Respondent was legally presumptively proper.
3. That the facts established by Complainant do not amount to “use” or “attempt to use” as prohibited pursuant to Section 1324c(a)(2).
4. That possession of forged, counterfeited or falsely made documents in connection with the forgery, counterfeiting or false making thereof constitutes possession pursuant to Section 1324c(a)(2).

C. Disputed Mixed Questions of Law and Fact

1. The amount of the civil money penalty to be imposed on Respondent.
2. Whether the amount of the civil money penalty, when established, violates the prohibition of excessive fines as provided for in the 8th Amendment.

4. RESPONDENT’S AFFIRMATIVE DEFENSES

- A. The Respondent’s ability to pay the fine.
- B. The excessive fine’s clause of the 8th Amendment to the U.S. Constitution.
- C. Whether the double punishment for possession of forged, counterfeited or falsely made documents in addition to imposition of penalties for the forgery, counterfeiting or false making thereof violates the double jeopardy provisions of the 5th Amendment to the United States constitution.

5. SYNOPSIS OF COURT’S RULINGS

A. Rulings Made by Robert L. Barton, Jr., Administrative Law Judge

1. That the amendments made to section 1324c by IIRIRA generally were not intended to be retroactive. [PHC(2) Tr. at 38-42 and Order Partially Granting Complainant’s Motion for Summary Decision, page 2.]
2. That, but for the six “excepted documents” referenced in paragraphs 24, 52, 60, 75, 88 and 89, Respondent forged, counterfeited, altered and falsely made the

documents listed in count I of the Complaint after November 29, 1990, for the purpose of satisfying a requirement of the Act knowing that such documents were forged, counterfeited, altered and falsely made. [PHC(1) Tr. at 27 and Order Partially Granting Complainant's Motion for Summary Decision, page 2.]

3. That creation of documents in the counterfeiting process did not constitute "possession" as that term is used in 8 U.S.C. § 1324(c). [PHC(2) Tr. at 51 and Order Partially Granting Complainant's Motion for Summary Decision, page 3.]

4. During the April 1, 1997, prehearing conference, Complainant's Motion as to count I, paragraphs 1-23, 25-51, 53-59, 61-74, 76-87, and 90-103 was granted. [PHC(1) Tr. at 27 and Order Partially Granting Complainant's Motion for Summary Decision, page 6.]

5. The evidence does not support Complainant's allegation that Respondent altered the I-94 forms within the meaning of section 1324c, and summary decision is denied **as to that allegation of the Complaint**. [Order Partially Granting Complainant's Motion for Summary Decision, page 8.]

6. ~~That the~~ Respondent **violated section 1324c(a)(1) by counterfeiting** the documents referenced in paragraphs 1-23, 25-51, 53-59, 61-74, 76-87, and 90-103. [Order Partially Granting Complainant's Motion for Summary Decision, pages 12, 26.]

7. Respondent violated 8 U.S.C. § 1324c(a)(1) by forging only the six following documents: CX-I-3; CX-I-5, CX-I-49, CX-I-51, CX-I-53, CX-I-55, **referenced in paragraphs 2, 3, 25, 26, 27 and 28, respectively**. [Order Partially Granting Complainant's Motion for Summary Decision, page 13.]

8. With respect to count I, Complainant has failed to show that Respondent ~~"altered" or "falsely made"~~ the 103 documents referenced in count I. [Order Partially Granting Complainant's Motion for Summary Decision, page 13.][Reversed by subsequent CAHO decision.]

9. Complainant has shown that Respondent "counterfeited" all of the documents referenced in count I, except for the six I-94's referenced in paragraphs 24, 52, 60, 75, and 88-89. [Order Partially Granting Complainant's Motion for Summary Decision, page 13.]

10. Complainant has not shown that there was "active employment" of the I-94's. [Order Partially Granting Complainant's Motion for Summary Decision, page 20.]

11. Respondent did not use the counterfeited and forged I-94 forms to enter the country or to attempt to obtain employment. [Order Partially Granting Complainant's Motion for Summary Decision, page 20.]

12. Complainant has not shown that Respondent “used” or “attempted to use” the I-94 documents within the meaning of section 1324c(a)(2) and the Motion for Summary Decision is denied as to this allegation. [Order Partially Granting Complainant’s Motion for Summary Decision, page 20.]

13. That the word provide as used in 8 U.S.C. § 1324c(a)(2) is construed by its common sense meaning, namely that the document is sold, given or otherwise furnished to another person or entity. [Order Partially Granting Complainant’s Motion for Summary Decision, page 21.]

14. That the record evidence shows that the counterfeit I-94 forms referenced in Complaint paragraphs 3, 8, 12-13, 18-19, 25-26, 29-37, 43-49, 53-59, 64-67, 70-72, 76-77, 80, 83, 87, 90, 93-95, 98-100 and 103 were knowingly “provided” by Respondent in order to satisfy a requirement of the Act. [Order Partially Granting Complainant’s Motion for Summary Decision, page 22.]

15. That Complainant has shown that Respondent knowingly “provided” the counterfeit I-94 forms referenced in Complaint paragraphs 3, 8, 12-13, 18-19, 25-26, 29-37, 43-49, 53-59, 64-67, 70-72, 76-77, 80, 83, 87, 90, 93-95, 98-100 and 103, in violation of 8 U.S.C. § 1324c(a)(2). [Order Partially Granting Complainant’s Motion for Summary Decision, page 24.]

16. Respondent violated section 1324c(a)(2) by knowingly “providing” fifty-one counterfeit and/or forged I-94 documents as charged in count II of the Complaint. [Order Partially Granting Complainant’s Motion for Summary Decision, pages 24, 26.]

17. A cease and desist order is appropriate and will be entered at the conclusion of this case. [Order Partially Granting Complainant’s Motion for Summary Decision, page 24.]

18. That while the seriousness of the offense is relevant, the federal sentencing guidelines are solely applicable to federal criminal cases and have no applicability to civil or administrative proceedings. [PHC(2) Tr. at 64 and Order Partially Granting Complainant’s Motion for Summary Decision, page 25.]

19. Proffered evidence, including testimony, on the seriousness of the violations in this case will be considered. [Order Partially Granting Complainant’s Motion for Summary Decision, page 25.]

20. Respondent’s age and health are relevant as bearing on his ability to pay the civil penalty. [Order Partially Granting Complainant’s Motion for Summary Decision, page 25.]

21. The level of Respondent's cooperation in the investigation is a relevant issue as to penalty. [Order Partially Granting Complainant's Motion for Summary Decision, page 25.]
22. Issues such as Respondent's ability to pay, the extent of his cooperation in the investigation, the number of counterfeit documents made by Respondent, and the length of time over which the prescribed activity occurred, are relevant and are in dispute. [Order Partially Granting Complainant's Motion for Summary Decision, page 26.]
23. That there are genuine issues of material fact that preclude summary disposition of the penalty issue, and, therefore, Complainant's Motion is denied as to this issue. [Order Partially Granting Complainant's Motion for Summary Decision, page 26.]
24. Complainant's Motion for Summary Decision is DENIED as to allegations that the documents were altered or falsely made. [Order Partially Granting Complainant's Motion for Summary Decision, page 26.] [Partially reversed by subsequent CAHO decision.]
25. Complainant's Motion for Summary Decision is DENIED as to the documents referenced in paragraphs 24, 52, 60, 75, 88 and 89. [Order Partially Granting Complainant's Motion for Summary Decision, page 26.]
26. Respondent waived the defense of double jeopardy. [Order Granting Complainant's Motion to Strike Respondent's Double Jeopardy Defense, page 10.]
27. Complainant's motion to strike the defense raised in Respondent's answer to the complaint based on the Double Jeopardy Clause is granted and Respondent's motion for summary judgment on that defense is denied. [Order Granting Complainant's Motion to Strike Respondent's Double Jeopardy Defense, page 10.]
28. Judgment for the Respondent as to paragraphs 24, 52, 60, 75, 88 and 89 of Count I. [PHC(3) Tr. at 24.]
29. Judgment for the Respondent as to Count II, with respect to the allegation that the Respondent used or attempted to use the I-94 documents. [PHC(3) Tr. at 24, 25.]
30. Judgment as to liability only for the Complainant as to the documents referenced in paragraphs 2, 27, and 28 of Count II. [PHC(3) Tr. at 26.]
31. The hearing is going to be bifurcated. [PHC(3) Tr. at 63.]

32. The joint pre-hearing order has been reset and is due on January 12, 1998, or not later than January 12. [PHC(3) Tr. at 84.]

B. Rulings made by Jack E. Perkins:

1. The ninety-seven documents listed at paragraphs 1-23, 25-51, 53-59, 61-74, 76-87 and 90-103 of Count I of the Complaint were falsely made in violation of 8 U.S.C. § 1324c(a)(1). [Modification by the Chief Administrative Hearing Officer of Administrative Law Judge's Order of October 17, 1997, page 7.]

2. The applicable version of 8 U.S.C. § 1324c requires the imposition of civil money penalties for "possessing" or "providing" documents in violation of § 1324c. [Modification by the Chief Administrative Hearing Officer of Administrative Law Judge's Order of October 17, 1997, page 7.]

**3. Amendments made to section 274c of the INA by IIRIRA generally were not intended to be retroactive. [CAHO's Order, page 2, n.3.]**

**4. The definition of "falsely made" added by IIRIRA at section 274c(f) is not applicable to this proceeding. [CAHO's Order, page 2, n.3].**

6. EXHIBIT LISTS

A. Complainant's Exhibit List

<u>EXHIBIT</u>	<u>DESCRIPTION</u>	<u>DATE ADMITTED</u>
<b><u>EXHIBIT CX-A</u></b>	Report of Investigation, Re: Pedro Dominguez.	_____
<b><u>EXHIBIT CX-B</u></b>	Record of Deportable Alien, re: Jorge Lopez-Hernandez.	April 1, 1997
<b><u>EXHIBIT CX-C</u></b>	Record of Sworn Statement, re: Jorge Lopez-Hernandez.	April 1, 1997
<b><u>EXHIBIT CX-D</u></b>	Record of Sworn Statement in Affidavit Form, re: by Julian Banda-Becerra.	April 1, 1997
<b><u>EXHIBIT CX-E</u></b>	Photocopies of (3) Counterfeit I-94 Departure Records, re: Jaime Villeda-Gonzales, Julio Villeda-Gonzales and Manuel Luis Villeda-Gonzales.	April 1, 1997

<b><u>EXHIBIT CX-F</u></b>	Memorandum of Investigation, Case No. 9305634.	_____
<b><u>EXHIBIT CX-G</u></b>	Application and Affidavit for Search Warrant.	December 18, 1997
<b><u>EXHIBIT CX-H</u></b>	Reamended Search Warrant Return.	December 18, 1997
<b><u>EXHIBIT CX-I</u></b>	(103) Forms I-94 Departure Records.	April 1, 1997
<b><u>EXHIBIT CX-O</u></b>	Forensic Report.	April 1, 1997
<b><u>EXHIBIT CX-Q</u></b>	Forensic Report.	April 1, 1997
<b><u>EXHIBIT CX-BB</u></b>	Record of Deportable Alien, re: Jose Guadalupe Barraza-Torres.	April 1, 1997
<b><u>EXHIBIT CX-CC</u></b>	Record of Sworn Statement in Affidavit Form, re: Jose Guadalupe Barraza-Torres.	April 1, 1997
<b><u>EXHIBIT CX-DD</u></b>	Record of Deportable Alien, re: Francisco Gomez-Gaytan	April 1, 1997
<b><u>EXHIBIT CX-EE</u></b>	Record of Deportable Alien, re: Fernando Palacios-Rios	April 1, 1997
<b><u>EXHIBIT CX-FF</u></b>	Record of Sworn Statement, re: Fernando Palacios-Rios	April 1, 1997
<b><u>EXHIBIT CX-GG</u></b>	Record of Deportable Alien, re: Dario Madera-Hernandez	April 1, 1997
<b><u>EXHIBIT CX-HH</u></b>	Record of Sworn Statement, re: Dario Madera-Hernandez	April 1, 1997
<b><u>EXHIBIT CX-II</u></b>	Record of Deportable Alien, re: Victor Manuel Cervantes-Palacios	April 1, 1997
<b><u>EXHIBIT CX-JJ</u></b>	Record of Sworn Statement in Affidavit Form, re: Victor Manuel Cervantes-Palacios	April 1, 1997

<b><u>EXHIBIT CX-KK</u></b>	Indictment, Criminal No. L-93-181, <u>United States of America v. Pedro Dominguez</u>	April 1, 1997
<b><u>EXHIBIT CX-LL</u></b>	Superseding Indictment, Criminal No. L-93-181-S, <u>United States of America v. Pedro Dominguez</u>	April 1, 1997
<b><u>EXHIBIT CX-MM</u></b>	Plea of Guilty, Criminal No. L-93-181-S, <u>United States of America v. Pedro Dominguez</u>	April 1, 1997
<b><u>EXHIBIT CX-NN</u></b>	Transcript of Plea, <u>United States of America v. Pedro Dominguez</u>	April 1, 1997
<b><u>EXHIBIT CX-OO</u></b>	Judgment Case No. 5: 93CR0181S-001, <u>United States of America v. Pedro Dominguez</u>	April 1, 1997
<b><u>EXHIBIT CX-PP</u></b>	Transcript of Sentencing.	April 1, 1997
<b><u>EXHIBIT CX-QQ</u></b>	Report of Investigation Case No. 9400254, re: Fausto Rosales-Camacho.	December 18, 1997
<b><u>EXHIBIT CX-RR</u></b>	Report of Investigation Case No. 9401429, re: Julian Banda-Becerra.	December 18, 1997
<b><u>EXHIBIT CX-SS</u></b>	Record of Sworn Statement in Affidavit Form, <del>re:</del> <b>by</b> Julian Banda-Becerra.	April 1, 1997
<b><u>EXHIBIT CX-TT</u></b>	Request for Monetary Fine.	April 1, 1997
<b><u>EXHIBIT CX-UU</u></b>	Transcript of Micro Audio-Cassette.	_____
<b><u>EXHIBIT CX-VV</u></b>	Deposition of Pedro Dominguez	April 1, 1997
<b><u>EXHIBIT CX-WW</u></b>	Receipt for Items taken from residence.	December 18, 1997
<b><u>EXHIBIT CX-XX</u></b>	IMMACT 90-Sec. 544 (274C), Civil Penalties for Document Fraud	April 1, 1997

<b><u>EXHIBIT CX-YY</u></b>	Affidavit of Dwight P. Jones with photographs.	_____
<b><u>EXHIBIT CX-ZZ</u></b>	Evidence obtained per Search Warrant.	December 18, 1997
<b><u>EXHIBIT CX-AAA</u></b>	Complainant's First Set of Interrogatories to Respondent and Respondent's Objections and Answers to Complainant's Interrogatories.	April 1, 1997
<b><u>EXHIBIT CX-BBB</u></b>	Complainant's Request for Admissions and Respondent's Objections and Responses to Complainant's Request for Admissions.	April 1, 1997
<b><u>EXHIBIT CX-CCC</u></b>	Amended Investigation and Prosecution Expenses.	_____

B. Respondent's Exhibit List

<u>EXHIBIT</u>	<u>DESCRIPTION</u>	<u>DATE ADMITTED</u>
<b><u>Exhibit RX-B</u></b>	Cash Receipts Reported to IRS by Respondent and his wife during 1990 through 1993.	_____
<b><u>Exhibit RX-D</u></b>	Presentence report of Respondent in No. L-93-181-S-01; <i>United States of America vs. Pedro Dominguez</i> .	April 1, 1997
<b><u>Exhibit RX-I</u></b>	Satisfaction of Judgment in No. L-93-181-S-01; <i>United States of America vs. Pedro Dominguez</i> .	_____
<b><u>Exhibit RX-J</u></b>	1990 Tax Return of Respondent and spouse.	_____
<b><u>Exhibit RX-K</u></b>	1990 Amended Tax Return of Respondent and spouse.	_____
<b><u>Exhibit RX-L</u></b>	1991 Tax Return of Respondent and spouse.	_____

<b><u>Exhibit RX-M</u></b>	1991 Amended Tax Return of Respondent and spouse.	<hr/>
<b><u>Exhibit RX-N</u></b>	1992 Tax Return of Respondent and spouse.	<hr/>
<b><u>Exhibit RX-O</u></b>	1992 Amended Tax Return of Respondent and spouse.	<hr/>
<b><u>Exhibit RX-P</u></b>	1993 Tax Return of Respondent and spouse.	<hr/>
<b><u>Exhibit RX-U</u></b>	Surface Deed for Lot in Zapata County.	<hr/>
<b><u>Exhibit RX-BB</u></b>	Special Warranty Deed for 210 E. White, Dilley, Texas.	<hr/>
<b><u>Exhibit RX-CC</u></b>	Warranty Deed for Darlington lots in Dilley, Texas.	<hr/>
<b><u>Exhibit RX-LL</u></b>	Settlement Statement for 24183 Boerne Stage Road, San Antonio, Texas 78255.	<hr/>
<b><u>Exhibit RX-MM</u></b>	Memorandum of Investigation in relation to an interview with Julian Banda.	<hr/>
<b><u>Exhibit RX-NN</u></b>	Memorandum from Steve Widnick to Anderson in relation to the civil fine being imposed on Respondent.	<hr/>
<b><u>Exhibit RX-RR</u></b>	Complainant's Second Amended Answers to Respondent's Interrogatories and Respondent's First Set of Interrogatories to Complainant (served and dated October 29, 1996)	April 1, 1997
<b><u>Exhibit RX-SS</u></b>	Final Decree of Divorce between Respondent, Pedro T. Dominguez and his ex-spouse, Bertha Ayala Dominguez.	<hr/>
<b><u>Exhibit RX-TT</u></b>	Settlement Statement for the sale of the property at 414 S. Crisp St., Uvalde, Texas 78801.	<hr/>

**Exhibit RX-UU**            Seller’s Statement for the sale of the property at 415 S. Crisp St., Uvalde, Texas 78801. \_\_\_\_\_

**Exhibit RX-VV**            Real Estate Lien Note for the sale of the property at 415 S. Crisp St., Uvalde, Texas 78801. \_\_\_\_\_

**Exhibit RX-WW**            Deed of Trust for the sale of the property at 415 S. Crisp St., Uvalde, Texas 78801. \_\_\_\_\_

**Exhibit RX-XX**            Release of Lien for the sale of the property at 415 S. Crisp St., Uvalde, Texas 78801. \_\_\_\_\_

**Exhibit RX-YY**            Collateral Transfer of Note and Lien for the sale of the property at 415 S. Crisp St., Uvalde, Texas 78801. \_\_\_\_\_

7.     WITNESS LISTS

A.     Complainant’s Witnesses:

- 1.     Pedro Dominguez, Respondent; 24183 Boerne Stage Road; San Antonio, Texas 78255

Mr. Dominguez is expected to testify as follows:

About his involvement in the production, sale and distribution of counterfeit I-94s. He will also testify concerning his multiple interviews and debriefing by the Office of Inspector General (OIG) and the proceeds and flow of money as a result of his criminal enterprise. He will testify as to his prosecution and guilty plea to the criminal conspiracy charge and his specialized knowledge and training as a Border Patrol/INS Agent in the detection of counterfeit documents.

DIRECT EXAMINATION TIME: 4 HOURS

- 2.     Julian Banda-Becerra, Protected Witness; Address Available  
Mr. Banda-Becerra is expected to testify as follows:

His participation in the criminal enterprise with Pedro Dominguez as a co-conspirator in the sale and distribution of counterfeit I-94s. His monetary payments

to Pedro Dominguez for documents, the number of documents sold and instructions from Pedro Dominguez regarding the distribution of the documents.

DIRECT EXAMINATION TIME: 2 HOURS

3. Victor Villarreal, Special Agent U.S. Border Patrol; 207 West Del Mar Blvd.; Laredo, Texas 78041

Agent Villarreal is expected to testify as follows:

Anti-Smuggling Unit (ASU) Agent who witnessed the controlled buy and subsequent arrest of Pedro Dominguez. He was involved in the criminal prosecution of Pedro Dominguez. This witness will testify as to the breadth of Pedro Dominguez's criminal enterprise, the number of documents, the number of vendors involved and the search and seizure of evidence from the Dominguez residence. This agent prepared the Application and Affidavit for the Search Warrant as well as the Reamended Search Warrant Return.

DIRECT EXAMINATION TIME: 2 HOURS

4. Steve M. Widnick, Special Agent (OIG); # 1 Texas Commerce Center Suite 510; McAllen, Texas 78501

Agent Widnick is expected to testify as follows:

Office of Inspector General (OIG) Agent who witnessed the controlled buy and subsequent arrest of Pedro Dominguez. He was also involved in the criminal prosecution of Pedro Dominguez. This witness will testify as to the breadth of Pedro Dominguez's criminal enterprise, the number of documents, the number of vendors involved and the search and seizure of the evidence from the Dominguez residence. This witness will testify to the transfer of evidence to the forensic lab (chain of custody). This witness debriefed Pedro Dominguez regarding his criminal enterprise as reflected in Exhibits CX-QQ and RR. These exhibits demonstrate Pedro Dominguez's use, attempt to use, possession and providing of the counterfeit I-94s.

DIRECT EXAMINATION TIME: 1 ½ HOURS

5. Jose A. Flores, Assistant United States Attorney in Charge United States Attorney's Office; 1501 Matamoros Street; Laredo, Texas 78042

AUSA Flores is expected to testify as follows:

AUSA Flores was the Assistant United States Attorney assigned to prosecute the criminal charges against Pedro Dominguez. He can testify as to the proceedings leading up to the plea agreement by Pedro Dominguez, the execution of the plea agreement, the plea and sentencing, the pre-sentencing report and the application of the sentencing guidelines.

DIRECT EXAMINATION TIME: 1 HOUR

6. Dwight P. Jones, Supervisory Special Agent ; U.S. INS; 8940 Fourwinds Drive; San Antonio, Texas 78239

Agent Jones is expected to testify as follows:

That he prepared Exhibits CX-A and CX-TT and the rationale to support the maximum fine. He also served the Civil Document Fraud, Notice of Intent to Fine, Form I-763 and Notice of Rights Form I-822 on Pedro Dominguez (attached to Complaint).

DIRECT EXAMINATION TIME: 2 HOURS

7. Gary M. Renick, Assistant Director of Investigations (RET.); 13343 Monte Leon; San Antonio, Texas 78233

Mr. Renick is expected to testify as follows:

That he approved the Civil Money Penalty amount and his basis surrounding his approval.

Mr. Renick is not available to testify until January 21, 1998. The undersigned have agreed that Mr. Renick will not be called to testify until then.

DIRECT EXAMINATION TIME: 30 MINUTES

B. Respondent's Witnesses:

1. Pedro Dominguez, Respondent; 24183 Boerne Stage Road; San Antonio, Texas 78255

Mr. Dominguez is expected to testify as follows:

As to Respondent's relationship with informant Banda and transactions between them; as to the Respondent's ability to pay a fine; as to the effect of the divorce Respondent's financial standing; as to income earned in relation to production and sale of the documents in question; as to the ownership and value of the property owned by Respondent; as to Respondent's income; as to the effect of fines against Respondent and his dependents; as to Respondent's cooperation with authorities; as to the proceedings leading up to the plea of guilty by Respondent; and as to the proceedings leading up to the execution of the plea agreement; as to the validity of presentencing report.

DIRECT EXAMINATION TIME: Approximately 2 HOURS

2. Emilio "Chito" Davila, Jr.; 1112 San Agustin Ave.; Laredo, Texas 78040  
Mr. Davila is expected to testify as follows:

As to the proceedings leading up to the plea of guilty by Respondent; as to the proceedings leading up to the execution of the plea agreement; as to the validity of presentencing report; and, as to the sentencing guidelines and their application to the sentence which Respondent received in the criminal matter.

DIRECT EXAMINATION TIME: Approximately 30-45 MINUTES

3. Julian Banda-Becerra; Protected witness, address unknown.

Mr. Banda is expected to testify as follows:

As to Respondent's relationship with the witness and transactions between them; as to the participation of the witness in the development of the conspiracy of which Respondent was convicted; as to the inducements made by the government to get Banda to cooperate with the government against Respondent and the reasons for the cooperation; as to the financial status of the witness; and as to financial / loan transactions between Banda and Respondent.

DIRECT EXAMINATION TIME: Approximately 1 ½ HOURS.

4. Dwight Jones, Special Agent; Immigration and Naturalization Service; 8940 Fourwinds Dr.; San Antonio, Texas 78239

Mr. Jones is expected to testify as follows:

As to expenses incurred by the government in investigation and prosecution of the case against Respondent and reasonableness thereof and as to the facts developed in his investigation of the Respondent.

DIRECT EXAMINATION TIME: Approximately 15 MINUTES

5. John Allen Shull, Jr.; CNMC Mortgage Corporation; 70 N.E. Loop 410, Suite 650; San Antonio, Texas 78216

Mr. Shull is an expert witness and is expected to testify as follows:

As to the loan value of the property on Boerne Stage Road.

DIRECT EXAMINATION TIME: Approximately 15-30 MINUTES

8. LENGTH OF HEARING

Approximately 3 days.

9. INTERPRETERS

There will be a need for a Spanish interpreter for Julian Banda-Becerra.

10. BIFURCATION OF HEARING

There will be no bifurcation of the hearing necessary.

11. RELATION OF THIS CASE TO ANOTHER MATTER PENDING IN THIS COURT OR ANOTHER STATE OR FEDERAL COURT, INCLUDING BANKRUPTCY COURT, OR A MATTER PREVIOUSLY RESOLVED BY THIS OR ANOTHER COURT

None

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**ROBERT L. BARTON, JR.**  
**ADMINISTRATIVE LAW JUDGE**  
**CERTIFICATE OF SERVICE**

I hereby certify that on this 13th day of January, 1998, I have served the foregoing Final Prehearing Order on the following persons, by first class mail (unless otherwise indicated), at the addresses shown:

Jane H. Thomson  
Assistant District Counsel  
Immigration and Naturalization Service  
P.O. Box 34178  
San Antonio, TX 78265-4178  
(Counsel for Complainant)  
(by FAX and first class mail)

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